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General Counsel

June 11, 2003

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VIA HAND DELIVERY

Hon. Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *MCImetro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. Complaint Against BellSouth for Overcharging for High Capacity Circuits*
Docket No. 03-00145

Dear Chairman Kyle:

Enclosed are the original and fourteen copies of BellSouth's Amended Answer. Copies of the enclosed are being provided to counsel of record.

Very truly yours,

Guy M. Hicks

GMH:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *MCImetro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. Complaint Against BellSouth for Overcharging for High Capacity Circuits*

Docket No. 03-00145

**AMENDED ANSWER OF
BELLSOUTH TELECOMMUNICATIONS, INC.**

BellSouth Telecommunications, Inc. ("BellSouth") respectfully responds to the Complaint filed by MCImetro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. (collectively "MCI"). MCI's claim that the charges imposed by BellSouth for services and facilities ordered by MCI constitutes a breach of the parties' interconnection agreements is erroneous. BellSouth has charged MCI appropriate rates and accordingly, the Authority should deny the relief that MCI seeks.

BellSouth responds to the specific allegations in the Complaint as follows:

1. BellSouth is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 1 of the Complaint; BellSouth admits the remaining allegations in Paragraph 1.
2. BellSouth is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 2 of the Complaint; BellSouth admits the remaining allegations in Paragraph 2.

3. BellSouth admits the allegations contained in Paragraph 3 of the Complaint.
4. BellSouth admits that the Authority has jurisdiction generally to interpret and enforce interconnection agreements, but denies that MCI has stated a claim under these statutes and orders upon which relief can be granted by the Authority. BellSouth denies the remaining allegations in Paragraph 4.
5. BellSouth admits the allegations contained in Paragraph 5 of the Complaint, except to the extent that such allegations refer to Brooks Fiber of Mississippi, Inc. BellSouth affirmatively states that the 1996 agreement referenced relates to Brooks Fiber of Tennessee, Inc.
6. BellSouth admits the allegations contained in the first sentence of Paragraph 6 of the Complaint. BellSouth admits that the 1997 Agreement had a term of three years; however, BellSouth denies the allegations contained in the second sentence of Paragraph 6 of the Complaint and affirmatively states that subsequent interconnection agreements between the parties became retroactive to the expiration of the 1997 Agreement.
7. BellSouth admits the allegations contained in Paragraph 7 of the Complaint.
8. BellSouth admits that MCImetro and Brooks Fiber executed follow-on interconnection agreements; BellSouth affirmatively states that such agreements become retroactive and effective as of May 30, 2000.

BellSouth admits the allegations contained in the third sentence of Paragraph 8 of the Complaint. BellSouth denies any remaining allegations in Paragraph 8 and affirmatively asserts that the parties' interconnection agreements speak for themselves.

9. The provision in the interconnection agreement referenced in Paragraph 9 of the Complaint speaks for itself, and no further response from BellSouth is required. BellSouth admits that on or about April 12, 2002, MCI sent a notice of discrepancy, the terms of which speak for themselves.
10. The provision in the interconnection agreement referenced in Paragraph 10 of the Complaint speaks for itself, and no further response from BellSouth is required. BellSouth admits the remaining allegations contained in Paragraph 10.
11. The provision in the interconnection agreement referenced in Paragraph 11 of the Complaint speaks for itself, and no further response from BellSouth is required. BellSouth admits the remaining allegations contained in Paragraph 11.
12. BellSouth admits that the parties met on June 14, 2002 to discuss the issues raised in the Complaint. BellSouth denies the remaining allegations contained in Paragraph 12 of the Complaint.
13. The provision in the interconnection agreement referenced in Paragraph 13 of the Complaint speaks for itself, and no further response from BellSouth is required. BellSouth states that MCI

purported to escalate this dispute to the third level of management and that this dispute was not resolved. BellSouth affirmatively states that on or about July 26, 2002 BellSouth provided MCI with its third level management contact; however MCI never contacted BellSouth's management contact nor did MCI schedule a meeting or otherwise respond to BellSouth until the time that this complaint was filed. Any remaining allegations in Paragraph 13 of this Complaint are denied.

14. The provision in the interconnection agreement referenced in Paragraph 14 of the Complaint speaks for itself and no further response from BellSouth is required. BellSouth denies the remaining allegations in Paragraph 14. BellSouth affirmatively states that it is willing to discuss with MCI the matters raised in the Complaint.
15. BellSouth incorporates its responses to Paragraphs 1 through 14 of the Complaint as if fully set forth herein.
16. The Agreements referenced in Paragraph 16 of the Complaint speak for themselves and no further response from BellSouth is required.
17. BellSouth admits that DS1 interconnection trunks connect MCI switches to BellSouth central offices for the purpose of exchanging traffic between the parties, and that DS1 interconnection trunks are capable of carrying twenty-four voice grade circuits at one time. BellSouth further admits that MCI has been entitled to obtain DS1 interconnections trunks under the Agreements referenced. BellSouth denies the remaining allegations in Paragraph 17 of the Complaint.

BellSouth affirmatively asserts that it has properly billed MCI switched access rates for DS1 interconnection trunks ordered by MCI because MCI has never furnished BellSouth with any information, such as a Percent Local Facility ("PLF") factor, by which BellSouth could reasonably determine the volume of local traffic, if any, carried over such trunks.

18. BellSouth is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Complaint as drafted because the extent to which carriers are entitled to originating or terminating local exchange access charges depends upon the serving arrangement involved.

19. The provisions of the interconnection agreements referenced in Paragraph 19 of the Complaint speak for themselves and require no further response from BellSouth. BellSouth denies the remaining allegations contained in Paragraph 19 of the Complaint. BellSouth affirmatively asserts that because the parties' interconnection agreements permit interconnection trunks to carry local, intraLATA, and interLATA traffic, MCI is required to provide BellSouth with sufficient information, such as a Percent Local Facility ("PLF") factor, so that the appropriate billing rates can be applied, which MCI has failed to do.

20. BellSouth affirmatively asserts that because the parties' interconnection agreements permit interconnection trunks to carry

local, intraLATA, and interLATA traffic, MCI is required to provide BellSouth with sufficient information, such as a Percent Local Facility ("PLF") factor, so that the appropriate billing rates can be applied, which MCI has failed to do. BellSouth also states that MCI has provided BellSouth with information indicating the DS1 interconnection facilities carries interstate traffic, to which access rates apply. BellSouth denies the remaining allegations in Paragraph 20 of the Complaint.

21. BellSouth denies that it has breached the interconnection agreements and denies that MCI has been required to pay substantially higher prices for DS1 interconnection trunks than MCI is obligated to pay. BellSouth is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 21 of the Complaint.

22. BellSouth denies that MCI overpaid for DS1 interconnection trunks and therefore denies that BellSouth should be ordered to refund any amount to MCI. BellSouth affirmative states that it is and has been willing to cooperatively address this matter with MCI. BellSouth denies the remaining allegations contained in Paragraph 22 of the Complaint.

23. BellSouth incorporates its responses to Paragraphs 1-22 of the Complaint as if fully set forth herein.

24. The provisions of the interconnection agreements referenced in Paragraph 24 of the Complaint speak for themselves and require no further response from BellSouth. BellSouth admits the remaining allegations contained in Paragraph 24 of the Complaint.
25. BellSouth is without knowledge or information sufficient to form a belief as to truth of the allegations in the first sentence of Paragraph 25 of the Complaint. BellSouth denies the remaining allegations in Paragraph 25. BellSouth affirmatively asserts that it has billed MCI at the proper rates for the special access services MCI has ordered.
26. BellSouth denies that it has breached the interconnection agreements and denies that MCI has been required to pay substantially higher prices for DS3 transport facilities than MCI is obligated to pay. BellSouth is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 26 of the Complaint.
27. BellSouth denies that MCI overpaid for DS3 transport facilities and therefore denies that BellSouth should be ordered to refund any amount to MCI. BellSouth denies the remaining allegations contained in Paragraph 27 of the Complaint.
28. BellSouth incorporates its responses to Paragraphs 1-27 as if fully set forth herein.

29. BellSouth is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of the Complaint.
30. The Settlement Agreement referenced in Paragraph 30, speaks for itself. BellSouth affirmatively asserts that, consistent with the Settlement Agreement, the rates, terms, and conditions relating to the provisioning and pricing of DS1 combinations are governed by the terms of the current interconnection agreements (which agreements were retroactive to May 30, 2000) between the parties.
31. BellSouth admits that MCI has ordered DS1 combinations via an Access Service Request ("ASR") and continues to do so today, even though BellSouth has established an electronic ordering process for DS1 combinations via a Local Service Request ("LSR"). BellSouth also admits that MCI has properly been billed special access rates. BellSouth denies the remaining allegations in Paragraph 31 of the Complaint.
32. BellSouth admits that MCI has been billed special access rates for special access services ordered by MCI. BellSouth denies that it has breached the interconnection agreements, denies that it breached the Settlement Agreement, denies that it breached any Authority orders, and denies that MCI has been required to pay substantially higher prices for DS1 combinations than MCI is obligated to pay. BellSouth is without knowledge or information sufficient to form a belief as to

the truth of the remaining allegations in Paragraph 32 of the Complaint.

33. BellSouth denies that MCI overpaid for DS1 combinations and therefore denies that BellSouth should be ordered to refund any amount to MCI. BellSouth denies the remaining allegations contained in Paragraph 33 of the Complaint.

34. Any allegations not expressly admitted are hereby denied.

35. BellSouth asserts the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

36. The current Interconnection Agreement between BellSouth and MCI contains a dispute resolution procedure, with which MCI has failed to comply. Thus, MCI's claims are barred for MCI's failure to exhaust its administrative remedies.

SECOND AFFIRMATIVE DEFENSE

37. BellSouth provided various discounts associated with the special access services purchased by MCI to which MCI would not be entitled if the Authority grants the relief requested by MCI. BellSouth is entitled to set off the entire sum of these discounts against any award MCI may receive.

THIRD AFFIRMATIVE DEFENSE

38. Some of MCI's claims may be barred by the doctrines of laches, waiver, and/or estoppel.

WHEREFORE, BellSouth prays that, after due proceedings, there be judgment herein in its favor and against MCI as follows:

- (1) Denying the relief requested by MCI in the Complaint; and
- (2) For all other relief deemed appropriate under the law.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2003, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight
- ☐ Electronic

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